

In the United States Court of Federal Claims

No. 05-1187C
(Filed February 12, 2007)

ATHER H. BUTT,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

ORDER

Chambers received by facsimile today the attached document from the plaintiff addressed to the Chief Judge of this Court and entitled "Change of Judge." Plaintiff, a resident of Pakistan who is proceeding *pro se* and has no telephone number at which he may be reached, complains about the manner in which the Court is handling this matter.

First, he objects to the delay in ruling upon the government's motion to dismiss. But this delay in large part is due to the difficulty in communicating with Mr. Butt. The Court has endeavored to provide every practical accommodation to him, including allowing him to file additional papers other than the one opposition brief a party is normally allowed. In place of an oral hearing on the government's motion -- which is not possible given plaintiff's inability to provide the Court with a telephone number at which he may be reached -- the Court requested that the parties submit supplemental briefs addressing questions the Court finds relevant to the determination of the government's motion. *See* Order (Jan. 10, 2007) at 2-3. The Court awaits Mr. Butt's Supplemental Brief, which is due on February 26, 2007. The Court finds it hard to understand how the plaintiff can take offense at these accommodations -- which were adopted for Mr. Butt's benefit -- but will assume that Mr. Butt's lack of familiarity with the American legal system is the source of his displeasure and impatience.

Second, Mr. Butt objects to the Court's treatment of the paper he entitled "Plaintiff's Motion for Summary Judgement in his Favour." The Court explained in the January 10 order that, as a motion for summary judgment, this document is groundless. Rather than require a response to a frivolous motion, the Court, taking into consideration the *pro se* status of the

plaintiff, filed the document as a supplemental opposition to the motion to dismiss. *See* Order (Jan. 10, 2007) at 2. The plaintiff persists in desiring that this paper be considered a motion for summary judgment. So that there is no lingering confusion on this point, the Court accordingly **DENIES** Mr. Butt's motion for summary judgment as frivolous. No answer to his complaint is yet due, under Rule 12(a)(2)(A) of the Rules of the United States Court of Federal Claims ("RCFC"), and the lack of an answer is no admission of any sort on the part of the government.

Rather than recognizing the January 10 order as an effort to accommodate Mr. Butt's location and lack of knowledge concerning Court proceedings, Mr. Butt complains that it was issued at all. He also contends that the Court has "[n]ot grant[ed] minor facilities, which judges normally easily grant." The Court presumes Mr. Butt is referring to the denial of his request that a lawyer be appointed to represent him. As the Court explained, it has no such appointment power. *See* Order (Jan. 10, 2007) at 2. In our legal system, plaintiffs in civil cases generally must find their own counsel -- particularly when, as here, damages of more than a nominal amount are sought.

Mister Butt's basic complaint is that the Court "has kept the decision pending for [an] indefinite period without assigning any reason." Perhaps the Court was not as clear as it should have been in the January 10 order. Cases that are litigated without a lawyer on the plaintiff's side -- those that involve a *pro se* litigant -- impose special difficulties and burdens on the court. If the court were to require *pro se* parties to make their arguments as clearly and in the same format as those made by counsel, it would be a simple matter to dismiss virtually every *pro se* case. Instead, the Court excuses such shortcomings and very carefully considers the papers submitted by *pro se* parties. These papers are often difficult to comprehend, although the time involved in construing them can sometimes be shortened by the use of a status conference or oral hearing at which the *pro se* party can explain its position. These options were not available, even by telephone, in this case, due to Mr. Butt's situation.

Because only one side has legal counsel, the legal arguments presented to a court in a *pro se* matter are often one-sided. To try to ensure that justice is done, when a case involves a *pro se* litigant the Court will often take upon itself the burden of researching some of the relevant law. This consumes the time and resources of a court. When, as here, the Court is able to identify relevant questions that were not addressed by a *pro se* party -- including arguments that might have been considered waived if a party represented by counsel failed to raise them -- in the spirit of lenity, the Court raises these questions on its own and requests the parties' positions. This, again, is something that could have been handled during a status conference or an oral hearing, were Mr. Butt reachable by telephone. But plaintiff's *pro se* status, and the circumstances of his location and availability, posed practical difficulties that the Court sought to ameliorate with an additional round of briefing. Given these circumstances, and the extraordinary efforts to which the Court has gone to accommodate the plaintiff, Mr. Butt's recent submission is baffling.

Mister Butt states that he has "lost confidence in [the Court's] way of handling of the case and do[es] not expect fair, impartial and timely justice from him." The Court hopes that the

above explanation has restored plaintiff's confidence. Mister Butt has not alleged (nor could credibly allege) any "personal bias or prejudice" that would require reassignment of this case under 28 U.S.C. § 144. Nor has any ground for disqualification, under 28 U.S.C. § 455, been advanced. Thus, the case should not be reassigned under RCFC 40.1(a). If Mr. Butt's paper is intended to be a motion to transfer under RCFC 40.1(b), the Court does not find transfer warranted and accordingly **DENIES** this request.

If Mr. Butt intended this paper to be a motion under RCFC 40.1(b), the Court reminds him that he must mail a signed, original copy of this paper to the Clerk's office with a certificate of service, and also mail a service copy to the government's counsel. *See* Order (Jan. 10, 2007) at 1. Although the RCFC 5.3 requirement that a party enclose two copies of each original document submitted to the Court for filing has been waived, *see id.*, the Court has not waived the original signature requirement or the service requirement. If Mr. Butt's intent was to file a complaint of judicial misconduct, he may request a copy of the relevant rules from the Clerk. *See* RCFC 40.3. The Court reminds plaintiff that his Supplemental Brief is due February 26, 2007.

IT IS SO ORDERED.

VICTOR J. WOLSKI
Judge